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MORRISON, FOERSTER, HOLLOWAY, CLINTON & CLARK

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HERBERT W. CLARK (1917-1964)
EDWARD HOHFELD (1907-1966)

FORREST A. COBB
COUNSEL

July 3, 1969

Miss Edith Witt
Housing Representative
Human Rights Commission
1095 Market Street
Suite 501
San Francisco, California

Dear Edith:

At long last I am sending you with this letter 12 copies of the completed Demolition and Alteration Permit ordinance. I believe the ordinance as now drafted incorporates the various points we have discussed with you and Pat Devaney over the past few months. I expect, however, that at such time as the ordinance reaches the City Attorney's desk, he will have some questions concerning it. In any event, I should appreciate knowing what steps you have planned next with regard to the ordinance.

Sincerely,

Noel W. Nellis

NWN:MIS
encls.

cc: Richard Morris, Esq.
Mr. Pat Devaney
Matt Selby, Esq.

ORDINANCE NO.

DRAFT

REQUIRING COMPLIANCE WITH PROVISIONS SET FORTH HEREIN PRIOR TO ISSUANCE OF ANY PERMIT FOR ALTERATION OR DEMOLITION OF A BUILDING USED FOR HUMAN HABITATION

Be it ordained by the People of the City and County of San Francisco:

The San Francisco Municipal Code is hereby amended by adding Article ____ reading as follows:

FW. Any other agency feedback on this? B

DRAFT

ARTICLE ____

DEMOLITION AND ALTERATION PERMITS

SEC. 1. Declaration of Policy and Purposes.

WHEREAS it is recognized that an extremely low vacancy factor exists for rental housing in San Francisco, and that new construction generally provides housing units for high and middle income persons and families; and

WHEREAS it is recognized that demolition or alteration of existing structures may destroy or make unusable units occupied by lower income families and individuals; and

WHEREAS these families and individuals are unable to find housing for similar rentals, and the displacement of these people causes personal, social, and cultural distress and is detrimental to the public health, safety and welfare;

THEREFORE, it is hereby declared to be the policy of this Ordinance to preserve and maintain an adequate supply of safe, decent and sanitary housing for the residents of the city by requiring that any and all alteration or demolition of structures as defined herein be subject to the following provisions of this Ordinance.

SEC. 2. Definitions.

(a) Alteration. For purposes of this Article, Alteration shall mean any change, addition or modification in construction or occupancy of a building as defined in this section, which will have the effect of removing or displacing from such building any person, family, or families who have lived therein for a period of longer than two days.

(b) Annual Housing Information Survey. The survey conducted by the Department of City Planning as provided in Section 7 of this Article.

ARTICLE ____

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(b) Annual Housing Information Survey. The survey conducted by the Department of City Planning as provided in Section 7 of this Article.

(c) Building. For purposes of this Article, Building shall mean any apartment house, boarding house, lodging house, rooming house, hotel or motel, or any other building or structure, or portion thereof, which is used, or designed or intended to be used, for human habitation and which, at the time of filing of an application for a permit to alter or demolish a building or any time within the two year period prior to said time of filing is or has been occupied as the home or residence of five (5) or more families living independently of each other in dwelling units, guest rooms or housekeeping rooms. Building does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention home or other institution in which human beings are housed and detained under legal restraint.

(d) Dwelling Unit. As defined in Housing Code Section 203.4.

(e) Family. An individual or two or more persons related by blood or marriage or a group or not more than five persons (excluding servants) who need not be related by blood or marriage, living together.

(f) Guest Room. As defined in Housing Code Section 203.7.

(g) Housekeeping Room. As defined in Housing Code Section 203.8.

(h) Replacement Housing. Replacement Housing shall mean housing which is functionally comparable and comparable by rental value and rental price for use by those families who would be displaced by the alteration or demolition of any building as defined in this Article. Such housing shall be safe, sanitary and otherwise in conformity to all requirements of the Building and Housing Codes.

(i) Residence. For purposes of this Article, Residence shall mean the primary fixed or permanent living place of the family in occupation thereof.

(j) Vacancy Rate. The average percentage proportion of unoccupied rental housing as determined for particular types of housing which are functionally comparable and comparable by rental value and price on an annual basis pursuant to the Annual Housing Information Survey. For purposes of this sub-section (j), "unoccupied rental housing" shall mean only housing that is safe, sanitary and otherwise in conformity to all requirements of the Building and Housing Codes.

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SEC. 3. Conformity Required.

(a) No person shall carry out or cause to be carried out any alteration or demolition of any building for which a city permit is required without approval by the Bureau of Building Inspection pursuant to Section 4 hereof. In addition, no such work shall take place unless all other applicable laws and regulations are complied with, and a proper permit has been issued for such work.

(b) The Central Permit Bureau shall not issue, and no other city department or agency shall issue, any permit for alteration or demolition of any building without approval of the Bureau of Building Inspection pursuant to Section 4 hereof. In addition, no such permit shall be issued unless all other applicable laws and regulations are complied with.

SEC. 4. Review and Approval of Permit Applications.

(a) Upon receipt of an application for a permit to carry out any alteration or demolition of any building, the Central Permit Bureau shall promptly forward such application

to the Bureau of Building Inspection for its review pursuant to part (b) of this Section and for such other reviews, actions and approvals as are within the jurisdiction of the Bureau of Building Inspection.

(b) The Bureau of Building Inspection shall not approve an application for a permit to carry out any alteration or demolition of any building unless the vacancy rate for replacement housing is at least three per cent (3%) or more as determined and shown by the Annual Housing Information Survey for the annual survey period last preceding the date of the application for the permit, provided, however, that an application for a permit shall be approved, notwithstanding whether the vacancy rate for replacement housing is less than three per cent (3%) if the owner or other person in charge or control of the building agrees to provide or make available replacement housing for the families who would be displaced by the alteration or demolition. In such a case, the owner or other person in charge or control of the building shall provide affidavits to the Bureau of Building Inspection on forms provided by said Bureau, stating specifically where each family has been relocated, the rental, and such other information as the Bureau of Building Inspection shall request. A copy of this affidavit shall be sent by registered mail to each of the persons or families so relocated, with instructions on how to provide opposing information. The affidavit and the return receipts from the registered letters shall be held by the Bureau of Building Inspection for ten days, after which (provided there is no prior objection), it shall give the final approval, the receipt of which shall allow the demolition or alteration to commence.

SEC. 5. Repair of Substandard Buildings.

When an application is made for a demolition or alteration permit, it shall include the written permission and consent of the owner, or other person in charge of or control of the property, to an inspection of the building by the Superintendent of the Bureau of Building Inspection, which consent, in the event of a refusal of the permit by the Bureau shall last for a period of thirty (30) days following said refusal. Whenever a permit to alter or demolish any building is denied, the Superintendent of the Bureau of Building Inspection shall within ten days inspect the building in order to determine whether the building or any portion thereof constitutes a substandard building as defined in Article Six of the Housing Code. In the event the Superintendent determines that any building or portion thereof is found to be substandard, said building or portion thereof shall be repaired and rehabilitated in accordance with Sections 203.K-203.R of the Building Code.

SEC. 6. Enforcement and Penalties.

(a) It shall be the duty of the Superintendent of the Bureau of Building Inspection to administer and enforce the provisions of this Article in accordance with its terms. In the performance of his duties, the Superintendent may call upon the District Attorney or the Chief of Police, or their authorized agents, to assist in the enforcement of these provisions, and the District Attorney is hereby authorized to institute any necessary legal proceedings and other appropriate actions to that end.

In addition to the foregoing, the City Attorney may maintain an action for injunction to restrain or abatement to cause the correction or removal of any violation of this Article, or for a mandatory injunction in appropriate cases.

(b) If the Superintendent of the Bureau of Building Inspection fails to enforce the provisions of this Article, the District Attorney on his own or in response to a complaint by an injured party, shall take appropriate legal actions.

(c) Any individual, family, person, firm, corporation or association shall be entitled to sue for and have injunctive relief, in any court having jurisdiction over the parties, against threatened injury or damage from violation of this Article, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause injury or damage is granted by courts of equity.

(d) Any person, firm or corporation violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed Five Hundred Dollars ($500) for each family removed or displaced from a building in violation hereof, or be imprisoned for a period not exceeding six months, or both. All moneys received as penalties under the provisions of this Article shall be paid into the City Treasury for deposit in the Repair and Demolition Fund established pursuant to Section 203.L. of the Building Code.

SEC. 7. Annual Housing Information Survey.

(a) The Department of City Planning shall pursuant to this Article provide for an annual survey of rents and vacancy rates in the housing stock of the City and County of San Francisco, together with a report relating to such other pertinent information as may be authorized by this section.

The Survey shall be made on a calendar-year basis and shall be completed on or before the first day of May for

each succeeding year following the effective date of this Article. In providing for the Survey, the Department of City Planning may enter into and sign agreements with independent contractors as may be necessary and proper to carry out the provisions hereof efficiently and fully.

(b) The Annual Housing Information Survey shall contain the following information:

1. A statement by census tract and housing type of vacancy rates, range and median value of rentals, tenure conditions, and market values of residential hotels, apartments, flats, and tenant-occupied, single-family dwelling units.

2. A description, including, but not necessarily limited to, the following characteristics of the occupants of the housing stock of San Francisco.

a. Distribution of households by size.

b. Distribution of households by age of head.

c. Distribution of households by family income.

d. Distribution of households by ethnic group.

3. A general description of the condition of the housing stock based upon the respondent's evaluation of the sampled housing unit.

4. Tabulation describing the mobility of the resident population.

5. Tabulations of the proportion of income devoted to housing by census tract for major occupational groups.

6. Projections of employment by industry within the City.

7. Population projections by age.

8. Net changes in the housing stock due to aging, demolition, and new construction.

9. Such other information as the Department of City

Planning or the Bureau of Building Inspection or both shall deem necessary to carry out the provisions of this Article.

(c) The Annual Housing Information Survey shall upon completion take the form of a final report which in addition to the foregoing information, will include:

1. Statistical tabulations of the data revealed by the survey together with descriptive material; and

2. Analysis of the information collected and inferences based upon the analysis; and

3. An exposition of the methods employed in the study.

SEC. 8. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or any part thereof, is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.